

§ 44.31

tubes which have been taken into a foreign trade zone from the United States Customs territory for the sole purpose of exportation or storage until exported.

[T.D. ATF-48, 43 FR 13556, Mar. 31, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 44.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTES: 1. By T.D. TTB-78, at 74 FR 29419, June 22, 2009, § 44.11 was amended as follows, effective June 22, 2009 through June 22, 2012.

a. The definition of “Export warehouse” is amended by removing the words “tobacco products and cigarette papers and tubes” and adding, in their place, the words “tobacco products or cigarette papers or tubes or any processed tobacco”;

b. The definition of “package” is revised;

c. A new definition of “Processed tobacco” is added in appropriate alphabetical order; and

d. The definition of “Roll-your-own tobacco” is amended by adding at the end before the period the words “or cigars, or for use as wrappers thereof.”

2. By T.D. TTB-79, 74 FR 37419, July 28, 2009, § 44.11 was amended by adding a definition of “special tax”, effective July 28, 2009 through July 30, 2012.

Subpart Ba—Special (Occupational) Taxes

SOURCE: T.D. ATF-271, 53 FR 17563, May 17, 1988, unless otherwise noted.

§ 44.31 Liability for special tax.

(a) *Export warehouse proprietor.* Every export warehouse proprietor shall pay a special (occupational) tax at a rate specified by § 44.32. The tax shall be paid on or before the date of commencing the business of an export warehouseman, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) [Reserved]

(c) *Each place of business taxable.* An export warehouse proprietor under this part incurs special tax liability at each place of business in which an occupa-

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tion subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(d) *Payment of tax.* Special tax must be paid by return. The prescribed return is TTB Form 5630.5t, Special Tax Registration and Return—Tobacco. Special tax returns, with payment of tax, must be filed with TTB in accordance with the instructions on the form and the requirements of subpart D of part 46 of this chapter.

(26 U.S.C. 5731, 5733)

EFFECTIVE DATE NOTE: By T.D. TTB-79, 74 FR 37419, July 28, 2009, § 44.31 was amended by removing and reserving paragraph (b) and adding a new paragraph (d), effective July 28, 2009 through July 30, 2012.

§ 44.32 Rate of special tax.

(a) *General.* Title 26 U.S.C. 5731(a)(3) imposes a special tax of \$1,000 per year on every export warehouse proprietor.

(b) *Reduced rate for small proprietors.* Title 26 U.S.C. 5731(b) provides for a reduced rate of \$500 per year with respect to any export warehouse proprietor whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 44.31 relates) are less than \$500,000. The “taxable year” to be used for determining gross receipts is the taxpayer’s income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a “controlled group”; in that case, the rules of paragraph (c) of this section shall apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C.